

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Conor O'Shea	Team: Squad #5	CCRB Case #: 201809516	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 11/01/2018 10:50 PM	Location of Incident: [REDACTED]	Precinct: 40	18 Mo. SOL 5/1/2020	EO SOL 12/16/2020	
Date/Time CV Reported Fri, 11/09/2018 3:09 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 11/14/2018 11:05 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. LT David Camhi	00000	939965	NARCBBX
2. DT3 Joseph Ruggieri	5267	947841	FORCEID

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Vicente Perez	03173	946108	046 DET
2. DT3 Paul Zaino	04702	926336	NARCBBX
3. DT3 Luilly Vargas	3471	948578	NARCBBX
4. DT3 James Causa	1852	950180	NARCBBX
5. DT3 Luis Sanchez	01300	947365	042 DET
6. Officers			NARCBBX

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Joseph Ruggieri	Force: Detective Joseph Ruggieri used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.DT3 Joseph Ruggieri	Force: Detective Joseph Ruggieri restricted § 87(2)(b) [REDACTED]'s breathing.	[REDACTED]
C.DT3 Joseph Ruggieri	Force: Detective Joseph Ruggieri used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.DT3 Joseph Ruggieri	Discourtesy: Detective Joseph Ruggieri spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
E.LT David Camhi	Force: Lieutenant David Camhi used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On November 9, 2018, Inspector Edward Armstrong of the Chief of Detectives Investigative Unit filed this complaint with IAB on behalf of § 87(2)(b) generating original IAB log #18-44156. The CCRB received this complaint on November 14, 2018.

On November 1, 2018, shortly before 10:50 p.m., § 87(2)(b) allegedly sold crack cocaine to an undercover officer from Bronx Narcotics as part of a buy-and-bust operation. Members of the Bronx Narcotics field team—including Lieutenant David Camhi, Detective Joseph Ruggieri (who has since been reassigned to the Force Investigation Division), and Detective Paul Zaino—pursued § 87(2)(b) in separate vehicles. At the intersection of § 87(2)(b) in the Bronx, Det. Ruggieri tackled § 87(2)(b) off of his bicycle (**Allegation A: Force**, § 87(2)(g)). Det. Ruggieri allegedly knelt on § 87(2)(b)'s back, allegedly restricting his breathing (**Allegation B: Force**, § 87(2)(g)). Det. Ruggieri allegedly punched § 87(2)(b) in the face while saying, “This is for making me run,” and, “Shut the fuck up” (**Allegation C: Force**, § 87(2)(g); **Allegation D: Discourtesy**, § 87(2)(g)). Lt. Camhi punched § 87(2)(b) multiple times (**Allegation E: Force**, § 87(2)(g)). § 87(2)(b) sustained a fractured nasal bone, minor facial swelling, and a cheek laceration. Det. Zaino arrested § 87(2)(b) for § 87(2)(b).

(**Board Review 01**).

This complaint was initially closed pending litigation on December 4, 2018, at § 87(2)(b)'s criminal defense attorney's request. § 87(2)(b)'s May 6, 2019, re-open request was denied on § 87(2)(b) 13, 2019, at his attorney's request, because the criminal case was still ongoing. On January 3, 2020, § 87(2)(b) provided a telephone sworn statement from prison, at which time he requested that this case be reopened. This request was granted on January 8, 2019. At that juncture, this case was reassigned from Inv. Ridge to Inv. O'Shea.

As a result of the delays described above, the investigation did not obtain a statement from § 87(2)(b) until 14 months after the date of the incident, and did not interview the officers until between 15 and 16 months after the incident.

As of the incident date, Bronx Narcotics was not participating in the BWC program. The investigation obtained several cell phone recordings of surveillance video being played on a computer screen (**Board Review 02–13**, summarized at **Board Review 14**). The NYPD investigators handling the force investigation apparently did not obtain the original footage.

Findings and Recommendations

Allegation A—Force: Detective Joseph Ruggieri used physical force against § 87(2)(b)

It is undisputed that members of the Bronx Narcotics field team believed that § 87(2)(b) sold drugs to an undercover officer and began pursuing him while he rode his bicycle to arrest him in regards. Det. Ruggieri took § 87(2)(b) to the ground in some manner as the field team tried to apprehend him in a buy-and-bust operation.

A surveillance camera from § 87(2)(b), displayed on a computer screen and recorded secondhand on a cell phone by NYPD investigators, captured the end of the bicycle chase and portions of the officers apprehending § 87(2)(b). The first video (**Board Review 02**) begins with § 87(2)(b) biking south and against the flow of traffic on one-way College Avenue before turning left, heading east and, again, against the flow of traffic on one-way § 87(2)(b), before he bikes off screen. An unmarked, light-colored sedan is directly behind him. At 00:17, a plainclothes officer runs west in the middle of § 87(2)(b) back towards § 87(2)(b). This person then cuts over to the south sidewalk as another individual, possibly § 87(2)(b), appears to run west and back towards § 87(2)(b) before falling to the ground on the sidewalk. Multiple individuals converge on § 87(2)(b) once he is on the ground. However, their

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actions from that point are unclear given the poor quality of the underlying surveillance video, compounded by the fact that this video is a cell phone recording from a computer screen rather than the original surveillance video itself.

§ 87(2)(b) (**Board Review 15**) denied partaking in any drug transactions and denied fleeing from officers. Instead, he recounted that he was biking slowly down the street when he heard an unmarked vehicle speed up from behind him and cut him off without using its lights or sirens. § 87(2)(b) swerved his bicycle towards the sidewalk to avoid running into the unmarked police vehicle. As § 87(2)(b) reached the sidewalk, and while he was still riding the bicycle with no helmet on, Det. Ruggieri exited the vehicle, ran towards him, and tackled him—American football style—off of the bicycle by driving his shoulders into the side of § 87(2)(b)'s upper body. No officer gave § 87(2)(b) any commands before Det. Ruggieri tackled him. Det. Ruggieri's tackle sent § 87(2)(b) flying off of the bicycle and onto the concrete sidewalk with Det. Ruggieri on top of him. § 87(2)(b)'s head did not strike the ground when he fell. He braced his fall with his hands and did not sustain any injuries besides minor hand abrasions as a result.

In Lt. Camhi's initial telephone call with IAB the day after § 87(2)(b)'s arrest (**Board Review 16**, summarized at **Board Review 17**), in which he reported the use of force incident, he stated that § 87(2)(b) "took off" on his bicycle after selling narcotics to the undercover officer. Lt. Camhi initially stated that "we tackled him," but later clarified that Det. Ruggieri alone used a forcible takedown on § 87(2)(b) and that he did so only after § 87(2)(b) fell off of his bicycle, stood up, and began to run away. Lt. Camhi (**Board Review 18**) testified to the CCRB that he drove directly behind § 87(2)(b) from § 87(2)(b) and onto § 87(2)(b)'s § 87(2)(b) when § 87(2)(b) tried to bike from the street to the sidewalk between two parked cars. § 87(2)(b)'s bicycle got stuck in between the cars, so he either fell or dismounted of his own accord to continue fleeing on foot. Lt. Camhi tried to pursue § 87(2)(b) through the gap in the cars, but § 87(2)(b) pushed the bike back towards him. Lt. Camhi climbed over the cars and onto the sidewalk. Meanwhile, Det. Ruggieri ran onto the sidewalk from an unknown location and took § 87(2)(b) to the ground on the sidewalk. Lt. Camhi's testimony was consistent with the narrative of the TRI ISAR (**Board Review 19**).

However, Det. Ruggieri (**Board Review 20**) explicitly disavowed the narrative in the TRI ISAR. Det. Ruggieri did not know how the narrative in the TRI ISAR originated. Instead, Det. Ruggieri testified, he exited his vehicle upon seeing § 87(2)(b) biking on the sidewalk—not the street. Det. Ruggieri took a few quick steps towards the sidewalk and in between two parked cars, extended two hands forward, and grabbed § 87(2)(b) in some manner. Det. Ruggieri did not remember whether he identified himself as the police or whether he issued § 87(2)(b) any verbal commands beforehand. Det. Ruggieri did not remember where or how he grabbed § 87(2)(b) but believed he may have reached for his torso. Due to the momentum of Det. Ruggieri's quick steps as well as § 87(2)(b) biking quickly, they both fell to the ground. Det. Ruggieri did not intend to tackle § 87(2)(b) to the ground; his only intention was to stop § 87(2)(b) so as to prevent him from further fleeing arrest and to eliminate any danger § 87(2)(b)'s bicycling could have caused.

§ 87(2)(g)

NYPD Patrol Guide Procedure 221-01 (**Board Review 21**) authorizes the use force "when it is reasonable to...place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances."

§ 87(2)(g)

Allegation B—Force: Detective Joseph Ruggieri restricted § 87(2)(b) s breathing.

§ 87(2)(b) (Board Review 15) testified that, after Det. Ruggieri tackled him to the ground, he put both hands on the ground and tried to lift himself up to escape. Det. Ruggieri knelt on § 87(2)(b) s back, compressing his chest against the ground. Det. Ruggieri’s action, specifically, made it “very hard” for § 87(2)(b) to breathe for approximately 25 seconds.

As discussed previously, the TRI ISAR (Board Review 19), Lt. Camhi’s IAB call (Board Review 16, 17), and Lt. Camhi’s testimony (Board Review 18) either imply or directly implicate Det. Ruggieri in the physical apprehension of § 87(2)(b) beyond merely taking him off of the bicycle. Lt. Camhi testified that he did not remember how Det. Ruggieri and § 87(2)(b) landed once Det. Ruggieri tackled him. Lt. Camhi denied seeing Det. Ruggieri or any officer kneeling on § 87(2)(b) s back, but he was largely unable to account for other officers’ actions while trying to handcuff § 87(2)(b) because he was focused on § 87(2)(b) s upper body and had his back turned to § 87(2)(b) s lower half.

However, Det. Ruggieri (Board Review 20) testified that he did not give further chase after tackling § 87(2)(b) off of the bicycle, even after § 87(2)(b) ran away on the sidewalk. Instead, Det. Ruggieri was in “shock” from going to the ground, so he took the time to brush himself off, regain his bearings, and double check that all of his equipment was in place. By the time Det. Ruggieri began paying attention to § 87(2)(b) again, other unidentified officers had already apprehended him. Although nothing obstructed Det. Ruggieri’s view of this, he could not attribute any specific actions to any officers. Det. Ruggieri denied kneeling on § 87(2)(b) s back or physically engaging with him after they went to the ground off of the bicycle.

As described above, the surveillance footage (Board Review 02) appears to show at least some portion of the officers apprehending § 87(2)(b). However, the footage does not afford sufficient clarity to identify specific officers or attribute specific uses of force to them. The second video (Board Review 03) appears to depict, at least temporally, the struggle on the ground with § 87(2)(b) but does not offer sufficient clarity to show what exactly occurs on the ground. There is also a five-second gap, in real time, between the first and second videos.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation C—Force: Detective Joseph Ruggieri used physical force against § 87(2)(b)

Allegation E—Force: Lieutenant David Camhi used physical force against § 87(2)(b)

It is undisputed that at least Lt. Camhi was physically involved in apprehending § 87(2)(b) once he was off of the bicycle and on the sidewalk. It is also undisputed that Lt. Camhi punched § 87(2)(b) multiple times in the upper body area with a closed fist. It is further undisputed that § 87(2)(b) was transported to Lincoln Hospital after being placed into custody. His medical records (Board Review 22, summarized at Board Review 23) show that he was diagnosed with a fractured nasal bone, bilateral mild perinasal swelling consistent with being hit in the face multiple times with closed fists, and a laceration to his right cheek. He had no other broken bones, did not require stitches, and did not have a concussion. An NYPD headshot photograph of § 87(2)(b) at the hospital (Board Review 24) depicts some of these injuries.

§ 87(2)(b) (Board Review 15) testified that he barely got his chest off of the ground before Det. Ruggieri held him to the ground by kneeling on his back. Det. Ruggieri then punched him on the right side of his face while saying, “This is for making me chase you.” § 87(2)(b) began repeatedly turning his head from side to side to avoid being punched in the face. § 87(2)(b) was unable to move any of his body parts aside from his head. Det. Ruggieri and Lt. Camhi repeatedly punched him in the face with closed fists, approximately eight times. The punches

landed on § 87(2)(b)'s cheeks and his nose. At one point, Lt. Camhi grabbed the back of § 87(2)(b)'s head by his long hair, turned his head to expose it for a punch, and held it in place while Det. Ruggieri punched him in the nose. § 87(2)(b) believed that this punch was possibly the second or third punch overall, and likely the one that broke his nose. § 87(2)(b) specifically testified that no officer punched him after he was handcuffed. Although § 87(2)(b) noted in his initial telephone call with IAB (**Board Review 25**) that he would need facial reconstruction surgery, he testified that he never sought or obtained any such surgery related to this incident. § 87(2)(b) identified his wife, § 87(2)(b) as an eyewitness to the incident. However, she died in § 87(2)(b) while this case was closed pending litigation. She never provided a statement to the CCRB. Although she briefly told IAB over the phone (**Board Review 25**) that multiple officers punched § 87(2)(b) in the face after he was in handcuffs, she did not provide an official statement to IAB. Although there were at least two other eyewitnesses present, § 87(2)(b) was unable to identify them in any way, and they were not identified or interviewed by IAB. The investigation was unable to identify them.

In Lt. Camhi's initial telephone call with IAB the day after the incident (**Board Review 16**, summarized at **Board Review 17**), in which he reported the use of force incident, Lt. Camhi acknowledged using "a couple hand strikes" as § 87(2)(b) was fighting with the officers in an unspecified manner. The TRI ISAR (**Board Review 19**) notes that, once Det. Ruggieri took § 87(2)(b) to the ground, § 87(2)(b) "began to push Det. Ruggieri and Lt. Camhi while throwing his elbows back towards them in an attempt to escape and was reaching into his waist area for a possible weapon. Lt. Camhi used hand strikes to overcome the resistance and to avoid the subject from reaching farther into his waist area."

Lt. Camhi's CCRB testimony (**Board Review 20**) was generally consistent with the ISAR narrative. Lt. Camhi initially believed § 87(2)(b) may have been armed because the intensity with which he fled the officers suggested he was guilty of more than a simple drug transaction, and because the field team was conducting buy-and-busts in that area that night specifically because of its high incidence of narcotics transaction-related shootings. Lt. Camhi's suspicion that § 87(2)(b) was armed grew when § 87(2)(b) was on the ground and repeatedly reached inside of his clothing and towards his waistband area because, if § 87(2)(b) had narcotics-related contraband there, he likely would have already discarded it. As such, Lt. Camhi believed that the only object § 87(2)(b) could have been reaching for was a weapon. Lt. Camhi did not observe anything specific to § 87(2)(b)'s appearance that indicated he was armed. Lt. Camhi gave § 87(2)(b) several commands to provide his hands before punching him. Although Lt. Camhi was unable to account for where the punches landed, he did not deny punching § 87(2)(b) in the face. Lt. Camhi did not remember whether other officers punched § 87(2)(b).

As discussed above, Det. Ruggieri (**Board Review 20**) denied being physically involved in apprehending § 87(2)(b) after he was off of the bicycle or punching him at any point. Although nothing obstructed Det. Ruggieri's view of unidentified officers apprehending § 87(2)(b) he could not attribute any specific actions to any officer. When asked if § 87(2)(b) resisted arrest in any way, Det. Ruggieri said, "Not that I know of."

Det. Zaino was the assigned arresting officer for § 87(2)(b) and was the sworn deponent in the resulting criminal court complaint (**Board review 26**), which stated that § 87(2)(b) "began flailing his arms and legs, holding his closed fists underneath his stomach refusing to be handcuffed." Det. Zaino (**Board Review 27**) testified that he was not physically present when § 87(2)(b) allegedly took those actions, and that he based the criminal complaint upon information he learned from other officers. He could not recall with greater specificity which officers he spoke to or which officers provided the specific information about § 87(2)(b)'s physical resistance.

As described above, the surveillance footage (**Board Review 02, 03**) appears to show at least some portion of the officers first apprehending § 87(2)(b) but does not afford sufficient

clarity to identify specific officers involved or attribute specific force actions to them. There is also a five-second gap, in real time, between the time period the two videos.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D—Discourtesy: Detective Joseph Ruggieri spoke discourteously to § 87(2)(b)

§ 87(2)(b) (Board Review 15) testified that, after Det. Ruggieri tackled him to the ground and began punching him in the face—but before he was in handcuffs—Det. Ruggieri told him to “shut the fuck up” approximately two times.

Det. Ruggieri (Board Review 20) denied being physically involved in apprehending § 87(2)(b) once he was off of the bicycle. Det. Ruggieri denied using any profanity with § 87(2)(b) in general or saying, “Shut the fuck up,” in particular. He also denied hearing any other officer do so.

Det. Zaino (Board Review 27) testified that he was not physically present for this portion of the incident and as such was not in a position to have witnessed it. Lt. Camhi (Board Review 18) did not remember whether any officer used any profanity in general, but he denied that any officer said, “Shut the fuck up,” to § 87(2)(b) or otherwise used the word “fuck” in any context.

There is no audio or BWC footage of this incident, as Bronx Narcotics was not yet participating in the BWC program at the time.

§ 87(2)(g)

Civilian and Officer Histories

- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- Det. Ruggieri has been a member of service for 11 years and has been named a subject in one other CCRB complaint and one other allegation, which was not substantiated. § 87(2)(g)
§ 87(2)(g)

- Lt. Camhi has been a member of service for 14 years and has been named a subject in three other CCRB complaints and four other allegations, none of which was substantiated. Every allegation in every CCRB complaint against Lt. Camhi is a force allegation. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of February 18, 2020, the NYC Office of the Comptroller has no record of any Notice of Claim from § 87(2)(b) regarding this incident (**Board Review 29**).
- § 87(2)(b)

Squad No.: #05

Investigator:	<u>Conor Seamus O'Shea</u>	<u>Investigator Conor O'Shea</u>	<u>March 26, 2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Daniel Giansante</u>	<u>Inv. Manager Daniel Giansante</u>	<u>March 28, 2020</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

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